

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

WISCONSIN ARCHERY PRODUCTS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:24-cv-02076
)	
GARMIN INTERNATIONAL, INC.,)	
)	
Defendant.)	

COMPLAINT

Plaintiff Wisconsin Archery Products, LLC (“Wisconsin Archery”), for its complaint against defendant Garmin International, Inc. (“Garmin”), alleges as follows:

Parties

1. Plaintiff Wisconsin Archery is a Wisconsin company with its principal place of business at W1734 Lee Road, Hayward, Wisconsin 54843. Among other things, Wisconsin Archery is engaged in the business of developing and selling archery equipment and accessories.
2. Defendant Garmin is a Kansas company with a principal place of business at 1200 East 151st Street, Olathe, Kansas 66062.

Nature of Action

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*
4. Wisconsin Archery is the owner of all right, title and interest in U.S. Patent 8,316,551 (“the ‘551 patent”) entitled *Auto-Correcting Bow Sight*, originally issued on November 27, 2012, a copy of which is attached as Exhibit A. An *ex parte* reexamination

certificate for the '551 patent issued on November 3, 2020, a copy of which is attached as Exhibit B.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332(a)(1), and 1338(a).

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

BACKGROUND

7. In and around 2008, the named inventors of the '551 patent, Timothy Gorsuch and James Buckley, developed a new and novel auto-correcting archery bow sight. Generally speaking, the inventive bow sight provides the hunter with an adjusted aiming point that accounts for various environmental conditions that may affect the flight of an arrow, such as wind, angle of inclination, and distance to target. The hunter can activate the system while a bow is at full draw, thus ensuring an accurate aiming point while the bow is in the shooting position.

8. Stated another way, a hunter aims the aiming point at the target and draws the bow. The hunter initiates the sequence by actuating an input device, such as a trigger or button, attached to the bow at a location that can be easily accessed while the blow is at full draw. The bow sight then automatically measures various environmental conditions and generates an aim indicator. The hunter then aligns the new aim indicator with the target and releases the arrow.

9. Mr. Buckley assigned his rights in the '551 patent to Mr. Gorsuch on November 7, 2012. Mr. Gorsuch subsequently assigned his rights in the '551 patent – constituting all right title and interest in the '551 patent – to Wisconsin Archery on February 1, 2014. Thus, as of February 1, 2014, Wisconsin Archery owned all right and title to the '551 patent.

10. In and around 2008, Wisconsin Archery developed a prototype of the novel bow sight disclosed in the '551 patent. However, Wisconsin Archery's attempts to commercialize its own product ultimately proved unsuccessful. Accordingly, Wisconsin Archery sought a partner to develop and commercialize the bow sight claimed and disclosed in the '551 patent.

11. Around 2014, Burriss Company, Inc. ("Burriss") approached Wisconsin Archery regarding the possibility of commercializing the technology in the '551 patent. Upon information and belief, Burriss had been developing its own auto-correcting bow sight and asked Wisconsin Archery for a license to the '551 patent. Wisconsin Archery agreed to grant Burriss a license for the '551 patent, as well as for Wisconsin Archery's know-how and the technology it had developed, such as Wisconsin Archery's prototype.

12. Wisconsin Archery and Burriss memorialized their business relationship in a License Agreement, *see* Exhibit A, which was fully executed on March 11, 2015.

13. As part of the License Agreement, Wisconsin Archery granted Burriss the exclusive right to enforce the patent against infringers. Burriss exercised this right by filing a lawsuit for patent infringement against Garmin on April 20, 2018, in the United States District Court for the District of Oregon – Eugene Division, captioned *Burriss Company, Inc. v. Garmin International, Inc.*, Case No. 6:18-cv-00700-AA ("the Burriss Lawsuit"). Wisconsin Archery was not a named party to the Lawsuit, nor did it participate in the Lawsuit.

14. In response to the Lawsuit, Garmin filed a Petition for *inter partes* review of the '551 patent on May 29, 2018, in the United States Patent and Trademark Office ("the USPTO"), captioned *Garmin International, Inc., v. Wisconsin Archery Products LLC*, Case No. IPR2018-01137 ("the IPR"). Wisconsin Archery was named as a party to the IPR because Wisconsin Archery owns the '551 patent, and the IPR must be brought against the owner of the challenged

patent. Garmin filed an unopposed motion to stay the Burris Lawsuit pending the outcome of the IPR, which the district court granted, thus staying the Burris Lawsuit.

15. Burris engaged Merchant & Gould P.C. (“Merchant & Gould”) to file a Preliminary Response on behalf of Wisconsin Archery in the IPR on September 14, 2018. Merchant and Gould also represented Burris in the Burris Lawsuit. The USPTO instituted the IPR in an Institution Decision dated December 11, 2018.

16. Shortly after entry of the Institution Decision, Burris informed Wisconsin Archery that Burris would no longer defend the IPR on behalf of Wisconsin Archery.

17. Due to Burris’ withdrawal, and in an effort to preserve the ’551 patent, Wisconsin Archery engaged its own counsel, Boyle Fredrickson, S.C. (“Boyle Fredrickson”), to represent Wisconsin Archery in the IPR. Boyle Fredrickson subsequently appeared in the IPR on behalf of Wisconsin Archery and Merchant & Gould withdrew from the IPR.

18. Wisconsin Archery, via Boyle Fredrickson, defended the IPR to conclusion, which resulted in a Final Written Decision finding the challenged claims, i.e., 1, 2, 4, 5, 7-9, 12, 12, and 20-26, unpatentable.

19. Dissatisfied with the Final Written Decision issued by the Board in the IPR, Wisconsin Archery initiated an *ex parte* reexamination of the ’551 patent within the United States Patent and Trademark Office, i.e., Reexamination Request No. 90/014,450, on February 11, 2020. During prosecution of the reexamination proceeding, Wisconsin Archery proposed amended claims that were ultimately allowed over the prior art considered during the IPR and over additional prior art that was not considered during the IPR. A reexamination certificate ultimately issued. *See* Exhibit B.

20. On February 11, 2020, Wisconsin Archery sent an email to Burris formally terminating the License Agreement.

21. On February 17, 2020, Burris' (via its counsel, Merchant & Gould) emailed Wisconsin Archery (via its counsel Boyle Fredrickson) indicating that Burris planned to dismiss the Burris Lawsuit against Garmin with prejudice. Wisconsin Archery did not consent to the dismissal, and Burris proceeded with dismissing the Burris Lawsuit with prejudice. The district court entered judgment dismissing the Burris Lawsuit with prejudice on April 2, 2020.

22. Wisconsin Archery, the sole owner of the '551 patent, was not a party to the Burris Lawsuit.

23. Moreover, the License Agreement was not tantamount to an assignment of the '551 patent to Burris for at least the following reasons: (i) the License Agreement explicitly states that Wisconsin Archery is the owner of the '551 patent; (ii) the License Agreement only allows for "limited sublicenses;" (iii) the License Agreement required Burris to pay Wisconsin Archery a percentage of any recovery resulting from Burris' enforcement of the '551 patent; (iv) the License Agreement obligated Wisconsin Archery to "lend its name to the lawsuit if required by law," indicating that the parties did not consider the License Agreement to be a full assignment of the '551 patent to Burris; and (v) the License Agreement required Wisconsin Archery to pay maintenance fees for the '551 patent. Thus, Burris did not have standing to bring the Burris Lawsuit without the inclusion of Wisconsin Archery.

24. Since Wisconsin Archery was never named as a party to the Burris Lawsuit, the district court did not have subject matter jurisdiction over the Burris Lawsuit, and the judgment is null and void.

COUNT I – PATENT INFRINGEMENT

25. Wisconsin Archery realleges and incorporates by reference the allegations in paragraphs 1 through 24 above.

26. Garmin has at least three products that infringe the '551 patent: (i) the Xero A1 bow sight; (ii) the Xero A1i bow sight; (iii) the Xero A1 Pro bow sight; and (iv) the Xero X1i crossbow scope (collectively the “Accused Products”).

27. Upon information and belief, the Xero A1 bow sight, the Zero A1i bow sight, and the Xero A1 Pro bow sight (collectively “the Xero bow sight”) have substantially the same features and functionality as it relates to an infringement analysis. Accordingly, the below analysis of the Xero A1 bow sight applies to each of the three Garmin bow sights.

Exemplary claim for the Xero A1, Xero A1i, and Xero A1 Pro bow sights

28. Garmin has manufactured, used, sold and offered to sell its Xero bow sights that infringe the '551 patent either literally or under the doctrine of equivalents. Below is an exemplary comparison of claim 64 of the '551 patent (an independent claim) with the Xero A1 bow sight, demonstrating infringement.

29. Claim 64 of the '551 patent is directed to an auto-correcting bow sight. The Xero A1 bow sight is an auto-correcting bow sight.

30. Claim 64 requires a base that is supported on a bow incorporating the auto-correcting bow sight.

31. As shown in the image below, the Xero A1 bow sight includes a base that incorporates the auto-correcting bow sight.



32. Claim 64 requires a sensor system that is supportable on the base and that is configured to determine both of a range to target and an angle of inclination of the bow.

33. The Xero A1 bow sight has a sensor system that is supported on the base and that determines the range to target and angle of inclination of the bow. For example, Garmin states on the Xero A1 Webpage: “A bow sight with a mounted digital laser range finder? Yeah, we did that.” Garmin further states on the XeroA1 Webpage: “Get precise angle-compensated distance to game up to 100 yards away or up to 300 yards on reflective targets.”

34. Claim 64 requires a display that is supported on the base and that includes a targeting sight located on the display at a position defining a default sighted-in position of the bow sight.

35. The Xero A1 bow sight includes a display that is supported on the base, as shown below. The display has a targeting sight at a position defining a default sighted in position of the bow sight. For example, the Xero A1 Owner’s Manual states: “Align the primary pin with the ranging reticle, and aim at the target.” *See Owner’s Manual, Ex. C, pg. 4.*



36. Claim 64 also requires multiple aim indicators that are located on the display and that are operably connected to the sensor system so that one of the multiple aim indicators can be selectively displayed based at least in part on both the determined range to target and the determined angle of inclination of the bow.

37. The Xero A1 display includes multiple LED pins that are displayed based upon the range to target and the angle of inclination of the bow. The Xero A1 Website states: “Clearly see bright LED pins over your target...” Further, the Owner’s Manual states: “While holding the reticle on the target, release the laser rangefinder trigger. The bow sight displays the measured range and projects a new pin.” *See* Owner’s Manual, Ex. C, pg. 4.

38. Claim 64 requires a manually actuated input device that is operably connected to the sensor system and that is configured so that actuating the input device can initiate an evaluation of which ones of the multiple aim indicators can be selectively displayed based at least in part on both of the determined range to target and the determined angle of inclination of the bow. Further, claim 64 requires that the input device be configured to be arranged upon the

bow in a spaced-apart relationship relative to the base and is configured to allow actuation of the input device by an archer when the bow is in a fully drawn position so as to permit initiation of the evaluation while the bow is in the fully drawn position.

39. The Xero A1 bow sight has a manually actuated input device in the form of a button, as shown in the image below. The Xero A1 Owner's Manual describes the basic operation of the bow sight, stating "... [d]raw your bow... [h]old the laser rangefinder trigger... [a]lign the primary pin with the ranging reticle, and aim at the target... [w]hile holding the reticle on the target, release the laser rangefinder trigger... [t]he bowsight displays the measured range and projects a new pin... [u]sing the new pin, aim at the target, and shoot the bow." Owner's Manual, Ex. C, pg. 4. Thus, in operation, a user draws the bow and pushes the button to initiate evaluation of the range to target and the angle of inclination of the bow so that the Xero A1 bow sight can display the appropriate LED pin for the target.



40. The Owner's Manual further discusses "Securing the Trigger," stating: "Position the ranging trigger on the grip of your bow where you can comfortably activate it at full draw." Owner's Manual, Ex. C, pg. 2.

41. The Xero bow sights embody each and every limitation of claim 64, either literally or under the doctrine of equivalents, and therefore infringe the '551 patent.

Exemplary Claim for the Xero X1i Crossbow Scope

42. Garmin has manufactured, used, sold and offered to sell its Xero X1i crossbow scope that infringes the '551 patent either literally or under the doctrine of equivalents. Below is an exemplary comparison of claim 64 of the '551 patent with the Xero X1i crossbow scope, demonstrating infringement.

43. Claim 64 of the '551 patent is directed to an auto-correcting bow sight. The Xero X1i crossbow scope is an auto-correcting bow sight.

44. Claim 64 requires a base that is supported on a bow incorporating the auto-correcting bow sight.

45. As shown in the image below, the Xero X1i crossbow scope includes a base that is configured to be mounted on a bow and that incorporates the auto-correcting bow sight.

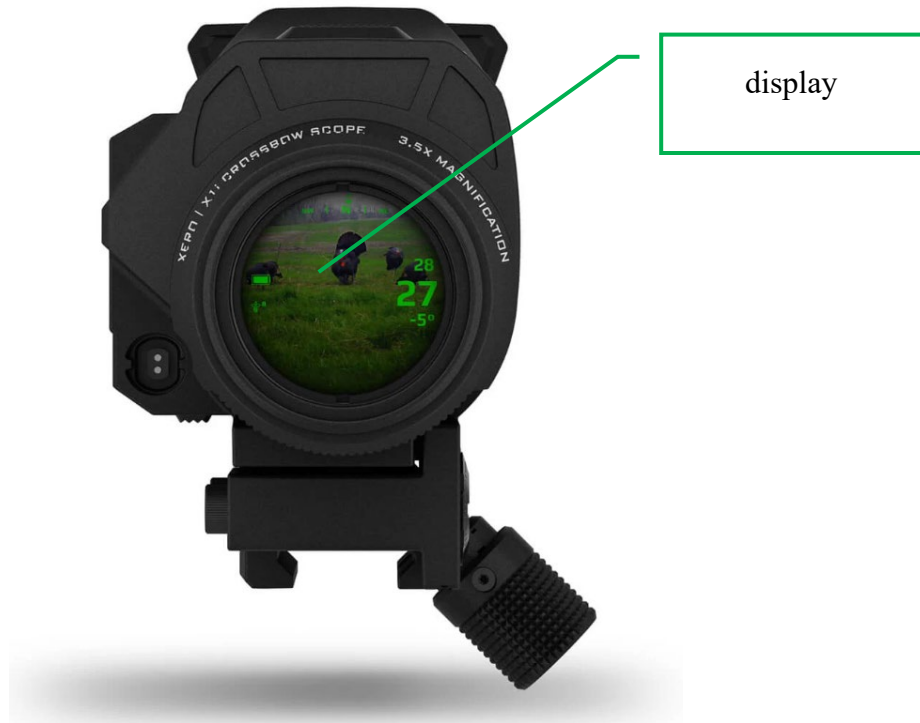


46. Claim 64 requires a sensor system that is supportable on the base and that is configured to determine both of a range to target and an angle of inclination of the bow.

47. The Xero X1i crossbow scope bow sight has a sensor system that determines the range to target and angle of inclination of the bow. For example, Garmin states on the Xero X1i Webpage: “A bow sight with a mounted digital laser range finder? Yeah, we did that.” The website further lists “angle compensated distance” as a feature of the crossbow scope. *Id.*

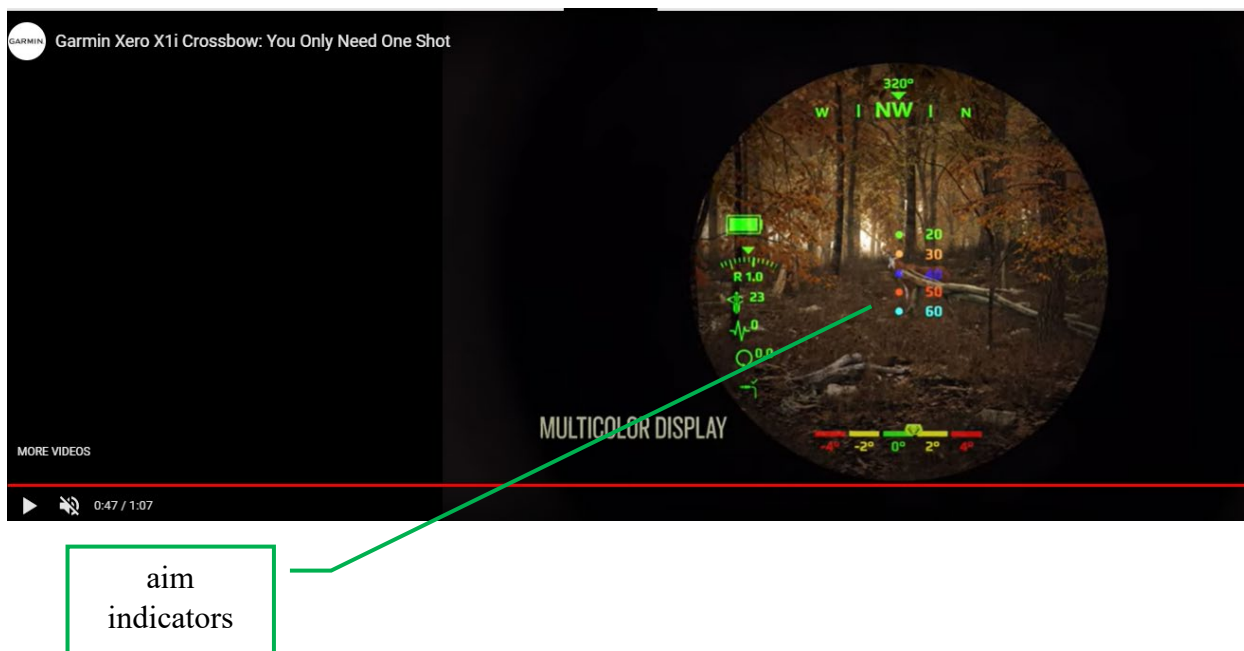
48. Claim 64 requires a display that is supported on the base and that includes a targeting sight located on the display at a position defining a default sighted-in position of the bow sight.

49. The Xero X1i crossbow scope bow sight includes a display that is supported on the base. The display has a targeting sight at a position defining a default sighted in position of the bow sight. For example, the XeroX1i Owner’s Manual explains that the display shows a crosshair that is aligned with the target. The crosshair is a targeting sight defining a default sighted-in position. The text “target locked” signifies that the rangefinder has measured the distance to target. An aim point will then be displayed. Owner’s Manual, Ex. D, pg. 8-9.



50. Claim 64 also requires multiple aim indicators that are located on the display and that are operably connected to the sensor system so that one of the multiple aim indicators can be selectively displayed based at least in part on both the determined range to target and the determined angle of inclination of the bow.

51. The Xero X1i crossbow scope display includes multiple aim indicators that are displayed based upon the range to target and the angle of inclination of the bow. The below image was taken from a video on the webpage for the XeroX1i crossbow scope (<https://www.garmin.com/en-US/p/659042/pn/010-02212-00#overview>).



52. Claim 64 requires a manually actuated input device that is operably connected to the sensor system and that is configured so that actuating the input device can initiate an evaluation of which ones of the multiple aim indicators can be selectively displayed based at least in part on both of the determined range to target and the determined angle of inclination of the bow. Further, claim 64 requires that the input device be configured to be arranged upon the bow in a spaced-apart relationship relative to the base and is configured to allow actuation of the input device by an archer when the bow is in a fully drawn position so as to permit initiation of the evaluation while the bow is in the fully drawn position.

53. The Xero X1i Owner's Manual explains how to mount the trigger to the crossbow handle. Owner's Manual, Ex. D, pp. 5-7. The trigger is a manually actuated input device that can be attached to the cross bow in a spaced-apart relationship relative to the base. It can be actuated while the crossbow is at full draw.

54. Upon information and belief, Garmin released the Xero X1i in and around November 2020, which is around seven months after the district court entered judgment in the

Burriss Litigation. The Xero X1i was not at issue in the Burriss Litigation. Accordingly, even if the judgment was somehow deemed to be enforceable, the Xero X1i is not subject to the judgment from the Burriss Litigation and Wisconsin Archery's claim as to the Xero X1i is not precluded.

SUMMARY

55. Garmin has directly infringed the '551 patent by making, using, selling, and offering to sell (i) the Xero A1 bow sight; (ii) the Xero A1i bow sight; (iii) the Xero A1 Pro bow sight; and (iv) the Xero X1i crossbow scope.

56. Garmin has induced and contributorily caused its customers to infringe the '551 patent by instructing and encouraging its customers to use the Accused Products.

57. Garmin was aware of the '551 patent prior to the filing of this lawsuit.

58. Upon information and belief, Garmin knew that the use of the Accused Products would infringe the '551 patent.

59. Upon information and belief, Garmin knew that the Accused Products were made or adapted for a use that would infringe the '551 patent.

60. Upon information and belief, Garmin has been and is willfully infringing the '551 patent.

61. It is believed that Garmin will continue to manufacture, sell, and/or offer for sale the Accused Products unless enjoined from doing so, causing Wisconsin Archery irreparable harm.

62. Garmin's conduct shows a lack of the required duty to avoid infringement of the '551 patent such that this is an exceptional case; therefore, Wisconsin Archery should be awarded its reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

63. Pursuant to 35 U.S.C. § 284, Wisconsin Archery is entitled to enhanced damages for infringement of the '551 patent by Garmin, up to treble damages.

64. Pursuant to 35 U.S.C. § 283, Wisconsin Archery is entitled to a preliminary and permanent injunction against further infringement of the '551 patent by Garmin.

Request for Relief

WHEREFORE, Plaintiff Wisconsin Archery Products, LLC demands that judgment be entered in its favor and against Defendant Garmin International, Inc. as follows:

- A. Adjudging that Garmin has infringed the '551 patent, and that Garmin's infringement has been willful;
- B. Preliminarily and permanently enjoining Garmin from infringing the '551 patent;
- C. Awarding plaintiff its damages, together with prejudgment interest, caused by Garmin's infringement; and
- D. Granting such other and further relief as the Court may deem appropriate.

Jury Demand

Plaintiff Wisconsin Archery Products, LLC hereby demands a jury trial of all issues of fact not admitted by the Defendant.

Designation of Place of Trial

Plaintiff designates Kansas City, Kansas as the place of trial.

Dated: March 5, 2024

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